Minnesota Office of Justice Programs (OJP)

Department of Public Safety

December 2019

**Discrimination/Harassment Policy & Complaint Process**

Applicability: OJP employees and OJP grant recipients, including Federal Department of Justice (DOJ) funded grant subrecipients.

# POLICY

The Minnesota Office of Justice Programs, Department of Public Safety (DPS), is committed to providing a workplace and public services which are free from discrimination and discriminatory harassment.

It is the policy of the Minnesota Office of Justice Programs that all OJP staff and each subrecipient program which receives federal funding will not exclude, deny benefits to, or otherwise discriminate against any person in the admission to, participation in or receipt of services or benefits or in employment practices on the basis of race, color, national origin, age, religion, disability, sex and relevant categories set forth in the federal law regarding the specific program area.

This policy establishes a process for handling complaints of discrimination and discriminatory harassment. Employees and grant recipients are encouraged to report all incidents using this process. Supervisors and managers have a special obligation under this policy and shall immediately report any conduct that may violate this policy.

OJP will not tolerate reprisal or retaliation against any person who makes a complaint or participates in an investigation into allegations of discrimination or discriminatory/sexual harassment. Such retaliatory action constitutes a violation of this policy and may result in corrective action, including termination of employment or grant benefits. Intentional use of this policy or complaint procedure for reasons of personal malice or abuse toward another employee or grant recipient is also prohibited.

# DEFINITIONS

**Employee:**

Employee means all OJP employees, including full-time, part-time, temporary, seasonal, or emergency workers, interns, and student workers.

**OJP Grant recipients:**

Grant recipients include, but are not limited to, grant recipient organizations, staff, Boards of Directors, applicants for employment, vendors, contractors, subcontractors, program participants, volunteers, members of the public, and individuals performing business or service-related work under the OJP grant, including DOJ funded subrecipient grants.

**Discrimination:**

Discrimination occurs when an individual or a group is treated unfairly or differently from others because of their membership or perceived membership in a protected class. This includes discrimination in employment decisions and in the provision of services.

**Discriminatory harassment:**

Discriminatory harassment is any inappropriate behavior based on a protected class characteristic. Discriminatory harassment may include, but is not limited to: repeated disparaging, belittling, derogatory comments, slurs, or jokes; or displaying objects, cartoons, or pictures of a derogatory or discriminatory nature.

**Sexual harassment:**

Sexual harassment is defined as unwelcome sexual advances, unwelcome requests for sexual favors, or other unwelcome verbal, written or physical conduct or communication of a sexual nature.

**Protected class:**

Protected class status defined under Federal or Minnesota law include an individual’s race, color, creed, religion, national origin, sex, sexual orientation, gender identity, marital status, public assistance status, familial status, age, disability, or membership or activity in a local commission.

**Retaliation or Reprisal:**

Retaliation or reprisal may include, but is not limited to, any form of retribution, intimidation, or harassment directed toward a complaining party because the individual has filed a complaint under this policy or an individual who participates in an investigation into such allegations.

# ROLES AND RESPONSIBILTIES

**Employees and Grant Recipients:**

All employees and grant recipient staff are responsible for their own personal conduct in a manner consistent with the spirit and intent of this policy. Individuals must refrain from engaging in any conduct in the work place or the provision of services which constitutes discrimination or discriminatory/sexual harassment against others. Individuals covered under this policy are responsible for seeking assistance about their obligations under this, or any other applicable, policy. Employees will provide appropriate information and assistance to any person who wants to file a complaint of discrimination or harassment. Such assistance may include referring the individual to a supervisor, the attached complaint form, or providing contact information for DPS Internal Affairs/Affirmative Action or Office of Justice Programs.

**Managers and Supervisors:**

Managers and supervisors of OJP and grant recipients have a special responsibility to report allegations of discrimination or harassment. Any allegations must be immediately reported to DPS’ Director of Affairs/Affirmative Action or the OJP Executive Director. In addition, managers and supervisors of OJP and grant recipients are responsible for implementing and enforcing this policy, taking appropriate action when necessary and for enforcing any other applicable discrimination and sexual harassment laws, policies, or provisions, including collective bargaining agreements.

**Director of Internal Affairs/Affirmative Action:**

After receiving an allegation of discrimination or discriminatory/sexual harassment or inappropriate behavior, the Director of Internal Affairs/Affirmative Action will determine appropriate action. If an investigation is necessary, reasonable efforts will be made to maintain confidentiality as much as is practical, on a need-to-know basis.

# HOW TO FILE A COMPLAINT:

Any individual may file a complaint of discrimination within 180 days of the date of the incident or one year, depending on the applicable statute. Individuals are encouraged to use the following procedure, but may also pursue information and remedies available through the Equal Employment Opportunity Commission, the Minnesota Department of Human Rights or the courts. Individuals are advised to check with these agencies to determine the existence of time limitations for filing complaints.

1. Individuals are encouraged to file their concerns and complaints in writing using any format including the [OJP Formal Complaint Form](http://dps.mn.gov/divisions/ojp/Documents/Formal%20Complaint%20Form%20OJP.docx). However, oral or email complaints will be accepted and processed. Complaints may be filed with the OJP Executive Director, the Director of Internal Affairs/Affirmative Action, or anyone in a supervisory or management position in OJP. The complaint does not need to be made through the employee’s or subrecipient grantee’s chain of command and can be made directly to the Directors of Internal Affairs/Affirmative Action or Office of Justice Programs.

Complaints, whether filed using the Formal Complaint form or through another format, should be sent via email or regular mail to either the Minnesota Department of Public Safety, Internal Affairs/Affirmative Action, 445 Minnesota Street, Suite #530, St. Paul, Minnesota, 55101, dps.ia@state.mn.us, or Minnesota Department of Public Safety, Office of Justice Programs, Executive Director, 445 Minnesota Street, Suite #2300, St. Paul, Minnesota, 55101, Kathryn.weeks@state.mn.us .

1. Complaints may also be filed with the Office for Civil Rights; Office of Justice Programs; U.S. Department of Justice; 810 Seventh Street NW; Washington, DC, 20531; <https://ojp.gov/about/ocr/complaint.htm>
2. OJP staff who receive a concern or complaint involving allegations of discrimination or discriminatory/sexual harassment will immediately notify the OJP Executive Director or Director of Internal Affairs/Affirmative Action.
3. Acknowledgement will be provided to complainants upon receipt of the complaint.
4. The Director of Internal Affairs/Affirmative Action will direct and review any investigation brought under this policy. Whenever possible, the investigation will be completed within 60 days.
5. The Director of Internal Affairs/Affirmative Action will inform the complainant when the investigation is concluded.

**CONSEQUENCES FOR POLICY VIOLATIONS**

Violators of this policy, or any other applicable policy, will be subject to corrective action, up to and including termination of employment or grant benefits. All corrective action will be considered on a case by case basis. Violations of this policy by third parties will be subject to appropriate action.

**ADDITIONAL RESOURCES**

* The Americans with Disabilities Act of 1990; 42 U.S.C. 12131, as amended
* The Age Discrimination in Employment Act of 1975; 42 U.S.C. 6101
* Minnesota Human Rights Act, Minn. Stat. Ch. 363A
* Minnesota Government Data Practices Act, Minn. Stat. Ch. 13
* Department of Public Safety Policy 1002 - Investigation and Resolution of Reports of Employee Misconduct
* Department of Public Safety Policy 1501 - General Harassment/Inappropriate Workplace Conduct
* State of Minnesota’s Sexual Harassment Prohibited policy (HR/LR Policy #1329).
* Applicable collective bargaining agreements and plans
* Title VI of the Civil Rights Act (Title VI) of 1964, as amended
* Omnibus Crime Control and Safe Street Act (Safe Streets Act) of 1968, as amended
* Section 504 of the Rehabilitation Act (Section 504) of 1973, as amended
* Title IX of the Education Amendments (Title IX) of 1972, as amended
* Juvenile Justice and Delinquency Prevention Act (JJDPA) of 1974, as amended
* Victims of Crime Act (VOCA) of 1984, as amended
* Violence Against Women Act (VAWA) of 1994, as amended
* Executive Order 13,559